

Memo to Record

SPK 2011-00608 (also see SPK 1997-75479)

June 14, 2011 – Received call, email and pictures from Mark McCutcheon reporting violation (see file). Mark indicated that unauthorized activity has occurred with NPS boundary and extends onto property which NPS holds a conservation easement to along the East Inlet to Grand Lake. Mark indicated that the Northern Colorado Water Conservancy District (NCWCD) had placed fill into approximately 1 acre of wetland. Project Manager, Travis Morse (TM), searched ORM database for point-of-contact at NCWCD. TM spoke with Amy L. Johnson (NCWCD, 220 Water Avenue, Berthoud, Colorado 80513, 970-532-7700/970-532-0942, ajohnson@ncwcd.org). Amy stated that she is unfamiliar with any activities occurring in the Grand Lake area, would investigate and get back to me.

June 15, 2011 – Received phone message from Amy indicating that the NCWCD was investigating the matter and that either Alan Bearyman or Don Carlson would be calling me back no later than June 16, 2011.

June 16, 2011 – Received phone message from Amy indicating that they were still investigating and that I would receive a call from Alan or Don on June 17, 2011.

June 20, 2011 – Spoke with Don Carlson, who indicated that NCWCD supplied fill materials to Jim Bianco. Materials were unloaded in the Bianco driveway. Mr. Bianco is alleged to have indicated that he was aware that his activity would require a Section 404 permit.

June 21, 2011 – Spoke with John Schwartz – 303-913-2600. Mr. Schwartz reported that he saw Mr. Bianco place approximately 200 cubic yards of sand and soil over a footpath extending 0.25 mile by 12 feet. Further, the fill had resulted in diverting water from and drying a wetland about the size of a football field. He indicated that the Biancos have filled in at least one acre of wetland, and have dumped sand into about 3 acres of wetland over the past 5 years.

June 22, 2011 – Spoke with Kay Bianco. She claimed that she had received two truckloads of rock from the NCWCD. She said that her and her husband had hired a contractor to install approximately 50 linear-feet of riprap along the East Inlet to Grand Lake. She could not recall the name of the contractor, but said that the work was performed with heavy equipment. She said that no other work was performed in wetlands or waterways. She said that ~300 trees were cut and removed from the area adjacent to the riprap area and may give the appearance of wetland fill, but that no fill occurred. She indicated that Mr. John Schwartz had cleaned up the trees, rootwads, and slash and dumped them into a nearby, pristine wetland. She also indicated that Mr. Schwartz is 'crazy' and that she has a lifetime restraining order against him.

June 29, 2011 – Spoke with Larry Gambel, National Park Service, 970-586-1320. Larry corrected Mark McCutcheon's earlier report to me that unauthorized activity occurred on NPS property. All work occurred on private property and the NPS does not hold any legal protective instrument to the property. Additionally, the NPS will not be pursuing legal action relative to this report.

June 29, 2011 – Met with John Schwatz. He provided me invoices of tree removal work he had performed that show he paid to have slash hauled off site. Please see attached. He said that wood/slash that has been placed in the wetland was done so by Louis DeAlessi, [REDACTED]. John said that he would have the material removed. TM called DeAlessi and left message to return call. John provided a handwritten map of adjacent landowners and their respective telephone numbers. Please see attached.

June 29, 2011 – Met with James (Jim) and Kay Bianco at their home. The Biancos claim that they had trees cut down and stumped and then had a separate contractor use heavy machinery to smooth over stump holes. They stated that they did not know the activity would be regulated and they would not provide the names of the contractors used. The Biancos said that NCWCD indicated that the placement of riprap was necessary to prevent flood damage. They also said that the stream guage operator immediately upstream of the riprap had warned them that they need to do stabilize the bank before peak flow or would be subjected to flood damage.

June 29, 2011 – TM performed investigation of reported unauthorized activity. Per Section F, atypical situation methodology and Western Mountain Supplement, TM calculated approximately 0.17 acres of wetland disturbance and approximately 120-feet of cobble and small boulder riprap was placed along the existing stream bank of the East Inlet (approximately 70 cubic yards of material below OHWM). TM investigated footpath and found no evidence of recent fill. File search revealed Corps action #199775165. This file contains various correspondence with the Biancos in 1991, 1997, and 1998 discussing our Regulatory program and permit needs. A NWP application was submitted by a consultant for the Biancos and the Corps exerting discretionary authority requiring an IP due to the high quality of wetlands proposed for impact and public interest factors. No IP application was submitted.

June 30, 2011 – Spoke with Arthur Shenkin who informed me of correspondence with USACE and previous wetland determination made at the site. Arthur faxed me that correspondence. Please see attached fax dated June 30, 2011.

July 5, 2011 – Called and left message for adjacent landowners, Louis and Helen DeAlessi, [REDACTED]

July 8, 2011 – Called Monica Heimdal, USEPA to provide an update. Left voice message with my work and personal cell phone numbers.

William Travis Morse

Biologist, USACE